

## Message Text

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ACTION EB-07

INFO OCT-01 ISO-00 AF-10 ARA-10 EA-07 EUR-12 NEA-10  
AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00 FRB-03  
H-01 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05  
PA-01 EPG-02 AID-05 SS-15 STR-04 ITC-01 TRSE-00  
USIA-06 PRS-01 SP-02 FEA-00 OMB-01 OIC-02 /126 W  
-----161903Z 097367 /41

P R 161745Z JUN 77  
FM USMISSION GENEVA  
TO SECSTATE WASHDC PRIORITY 8311  
INFO ALL OECD CAPITALS  
AMEMBASSY NEW DELHI  
AMEMBASSY MEXICO

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USMTN

PARIS FOR USOECD: BRUSSELS FOR USEC

ACTION STR

H PASS CODEL

E.O. 11652: N/A  
TAGS: ETRD; MTN  
SUBJ: GOVERNMENT PROCUREMENT SUBGROUP MEETING, JUNE 14-15, 1977

1. SUMMARY: CONSTRUCTIVE MEETING OF GOVERNMENT PROCUREMENT SUBGROUP ENDED AFTER DAY AND A HALF WITH AGREEMTN ON PROCDEURE THAT PROVIDE A SOLID BASIS FOR FURTHER PROGRESS IN THIS AREA. IN INFORMAL MEETING CONSENSUS REACHED AMONG MAJOR DEVELOPED COUNTRY DELEGATION TO HOLD SERIES OF PLURILATERAL SESSIONS FOR PURPOSES OF DRAFTING LANGUAGE ON MAJOR TOPICS FOR FURTHER PROGRESS  
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IN GROUP. LDCS WERE MORE VOCAL AND BETTER INFORMED THAN IN PREVIOUS MEETING, BUT COMMENTS WERE GIVEN IN CONTRUCTIVE VEIN. END SUMMARY.

2. MOST IMPORTANT ASPECT OF MEETING CAME IN INFORMAL MEETING AMONG MAJOR COUNTRIES (US, EC, CANADA, JAPAN, NORDICS) AND GATT SECRETARIAT. AGREEMENT WAS REACHED

THAT PROGRESS WILL BEST BE MADE IN THIS AREA THROUGH A SERIES OF PLURILATERAL SESSION AIMED AT CONSENSUS, INITIALLY, ON THREE MAJOR TOPICS (NON-DISCRIMINATION, TRANSPARENCY, AND DISPUTE SETTLEMENT). CONSENSUS ALSO EMERGED TO APPROACH GOVERNMENT PROCUREMENT NEGOTIATIONS IN TWO STEPS, FIRST DEVELOPING THE PRACTICES, PROCEDURES, RIGHTS, AND OBLIGATIONS OF A CODE, THEN NEGOTIATING THE COVERAGE OF SUCH A CODE. SEVERAL DELS, INCLUDING EC (DERISBOURG), NORDICS (LEMMEL), AND CANADA (CLARK) OFFERED TO PUT FORWARD LANGUAGE OF THEIR OWN ON PARTICULAR ISSUES. US (CULBERT) STATED THAT WE TOO WOULD CONSIDER DRAFTING LANGUAGE IF APPROPRIATE. THE JAPANESE (TERADA, ABE) REAFFIRMED THEIR WILLINGNESS TO NEGOTIATE, AND INDICATED THAT THEY WOULD BE CONTEMPLATING THE VARIOUS TOPICS OVER THE SUMMER IN TOKYO. SECRETARIAT WILL TALK INFORMALLY WITH MAJOR LDCS AND MEETINGS WILL BE KEPT SUFFICIENTLY INFORMAL SO AS NOT TO CREATE ILLUSION OF A "RICH MAN'S CLUB". CANADIAN DEL PRIVATELY ACCEPTED RESPONSIBILITY FOR ARRANGING FIRST SESSION. CHAIRMAN'S SUMMING UP REFLECTS EXPECTATION OF THESE MEETINGS AND POSSIBILITY OF TABLING TEXTS AT NEXT MEETING. MOOD AMONG ALL DELS SHOWED SURPRISING DEGREE OF OPTIMISM FOR PROGRESS IN THIS AREA.

3. FORMAL SUBGROUP MEETING PROGRESSED GENERALLY ALONG LINES ANTICIPATED IN INSTRUCTIONS (TPSC 77-46). SESSIONS WERE DEVOTED TO IN-DEPTH EDUCATIONAL DISCUSSIONS OF MAJOR GOVERNMENT PROCUREMENT AREAS (NON-DISCRIMINATION, TRANSPARENCY, SURVEILLANCE AND DISPUTE SETTLEMENT, COVERAGE).

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4. NON-DISCRIMINATION: US DEL GAVE GENERAL STATEMENT REITERATING US VIEWS ON NON-DISCRIMINATION. OTHER DEVELOPED COUNTRY DELEGATIONS (JAPAN, NORDICS, CANADIANS, AND EC) AGREED ON PRINCIPAL OF HAVING A BINDING NON-DISCRIMINATORY AGREEMENT. SEVERAL LDCS SUGGESTED THAT NON-DISCRIMINATION WAS AN AREA WHERE SPECIAL AND DIFFERENTIAL (S&D) PROVISIONS WOULD BE APPROPRIATE. JAMICAN DEL (SUPPORTED BY MEXICO, INDIA, NIGERIA) SUGGESTED "NON-DISCRIMINATION" (SIC) RULE SHOULD BE INTERPRETED TO COVER FOLLOWING THREE POINTS: 1) THAT LDCS WOULD BE ALLOWED TO DISCRIMINATE IN FAVOR OF DOMESTIC SUPPLIERS TO PROMOTE DOMESTIC INDUSTRIES; 2) THAT LDCS WOULD BE ALLOWED TO DISCRIMINATE IN FAVOR OF OTHER LDCS TO EXPAND THEIR MUTUAL TRADE; AND 3) THAT DEVELOPED COUNTRIES WOULD GIVE PREFERENTIAL TREATMENT TO EXPORTS OF LDCS. THE MEXICAN DEL (DELGADO) ADDED THAT TWO MAJOR PROBLEMS SHOULD BE TAKEN INTO ACCOUNT IN CONSIDERING NON-DISCRIMINATION: 1) THAT LDCS NEEDED DISCRIMINATORY GOVERNMENT PROCUREMENT TO PROMOTE INDUSTRIALIZATION

THROUGH THE PURCHASING POWER OF THE PUBLIC SECTOR, AND  
2) THAT RESERVES OF FOREIGN CURRENCY IN LDCS WERE SCARCE  
AND, THEREFORE, HAD TO BE UTILIZED AS EFFICIENTLY AS  
POSSIBLE. US DEL, SUPPORTED BY OTHER DCS (CANADA, EC,  
JAPAN) STATED THAT WHILE WE WOULD GIVE LDC VIEW FULL  
CONSIDERATION, SPECIFIC PROVISIONS COULD BE MORE USEFULLY  
DISCUSSED WHEN THE OUTLINE OF CODE WAS ESTABLISHED. INDIANS, SUPPORTED BY NIGERIA, STATED VIEW THAT  
S&D MIGHT HAVE HIGHER PRIORITY THAN OUTLINE OF THE CODE.

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TRSE-00 USIA-06 PRS-01 SP-02 FEA-00 OMB-01 AF-10  
ARA-10 EA-07 EUR-12 NEA-10 ISO-00 OIC-02 /126 W  
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P R 161745Z JUN 77  
FM USMISSION GENEVA  
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5. TRANSPARENCY-DISCUSSION OF TRANSPARENCY CONSISTED  
OF REITERATION OF TRADITIONAL POSITIONS. US DEL STATED  
THAT TRANSPARENCY WAS THE ESSENCE OF ENSURING NON-DISCRIM-  
INATION AND THAT THE CODE SHOULD CONTAIN THE GREATEST  
TRANSPARENCY POSSIBLE. CANADIANS SUPPORTED US AND STRONG-  
LY INDICATED NEED FOR EX POST PUBLICITY. THE EC STATED  
THAT EX-ANTE PUBLICITY WAS ACCEPTABLE, BUT THEY WERE  
OPPOSED TO FULL EX-POST PUBLICITY, ALTHOUGH THEY ACKNOW-  
LEDGED THAT SOME EX-POST INFORMATION MAY BE REQUIRED AS A  
MONITORING MECHANISM. THE EC STATED THAT THE  
NECESSARY EX-POST PUBLICITY REQUIREMENTS COULD BE LIMITED TO INTER-  
GOVERNMENTAL EXCHANGES OF NECESSARY INFORMATION. THE SWISS  
GENERALLY SUPPORTED THE EC POSITION, STRESSING THE NEED  
FOR STRIKING A BALANCE BETWEEN THE COST OF PROVIDING IN-

FORMATION AND THE REUSLTS THAT WOULD BE OBTAINED FROM  
HAVING THE INFORMATION. THE NORDICS SUGGESTED THAT A  
COMPROMISE MIGHT BE STRUCK ON THE BASIS OF PROVIDING  
TO LOSING BIDDERS, UPON REQUEST, THE NAME OF THE  
WINNING BIDDER AND THE AMOUNT OF THE AWARD (THE  
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SYSTEM NOW EMPLOYED IN SWEDEN AND IDENTICAL TO THE COM-  
PROMISE PROPOSED LAST YEAR BY U.S.). SEVERAL LDCS SUP-  
PORTED THE U.S. POSITION, BUT EXPRESSED CONCERN ABOUT  
ADDITIONAL EXPENSES INCURRED IN PROVIDING SUCH PUBLICITY.

6. CURVEILLANCE AND DISPUTE SETTLEMENT-CANADIAN DEL  
PRESENTED A RELATIVELY LENGTHY STATEMENT ON THE CANADIAN  
POSITION ON DISPUTE SETTLEMENT BASED ON THE PROVISIONS  
IN THE CANADIAN GOVERNMENT PROCUREMENT DRAFT. OTHER DELS  
MADE GENERAL COMMENTS ON SIGNIFICANCE OF THIS ISUE. US  
DEL STATED THAT TO MAXIMUM EXTENT GOVERNMENT PROCUREMENT  
SHOULD BE SELF-POLICING, BUT FOR THOSE INSTANCES WHERE  
NECESSARY, SOME FORM OF DISPUTE SETTLEMENT MECHANISM WILL  
BE NEEDED. JAPAN AND NORDICS AGREED WITH US AND ADDED  
THAT DISPUTE SETTLEMENT SHOULD BE COORDINATED WITH OTHER  
AREAS OF MTN.

7. COVERAGE - IN BRIEF DISCUSSION ON COVERAGE (ENTITIES,  
THRESHOLD) ALL MAJOR DELS AGREED THAT THIS WAS THE MOST  
DIFFICULT PART OF NEGOTIATIONS AND SHOULD BE CONSIDERED  
LATER. CANADIAN DEL WITHDREW FORM PRECIOUS POSITION OF  
CONSIDERING ENTITIES FIRST AND SUPPORTED TWO-STATE  
APPROACH. THE FIRST STEP OF WHICH WOULD BE TO DRAFT A  
CODE, THE SECOND TO BE A NEGOTIATION ON COVERAGE.

8. COMMENT: WHILE SUBGROUP MEETING DID NOT REVEAL ANY  
MAJOR NEW ELEMENTS OR POSITIONS, IT WAS CLEAR THAT A  
NUMBER OF DELEGATIONS HAD DONE THEIR HOMEWORK AND WERE  
MORE FAMILIAR WITH THE SUBJECT MATTER THAN AT THE LAST  
MEETING. THIS OBSERVATION, THE AGREEMENT ON HOW TO  
PROCEED, AND THE ATMOSHPERE AMONG THE DCS, PRODUCED A  
CERTAIN OPTIMISM TO PROGRESS IN THIS AREA. END COMMENT.

9. THE CHAIRMAN OF THE SUBGROUP WILL, IN CONSULTATION WITH  
DELEGATIONS, SET THE DATE FOR THE NEXT MEETING, EXPECTED  
FOR LATE NOVEMBER. DELEGATIONS AGREED TO TRY TO SUBMIT  
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TEXTS ON IMPORTANT ISSUES OF THE CODE PRIOR TO NEXT MEET-

ING FOR DISTRIBUTION BY SECRETARIAT.

CULBERT

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## Message Attributes

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**Channel Indicators:** n/a  
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**Concepts:** GOVERNMENT PROCUREMENT, COMMITTEE MEETINGS  
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**Disposition Date:** 22 May 2009  
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